

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

EMMITT JONES, III,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:19cv84-MHT
)	(WO)
CHERMANE M. BASKIN, Sgt.,)	
Correctional Officer,)	
)	
Defendant.)	

OPINION

Pursuant to 42 U.S.C. § 1983, plaintiff, a state prisoner, filed this lawsuit contending that the defendant correctional officer used excessive force against him. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that plaintiff's case be dismissed as malicious under 28 U.S.C. § 1915(e)(2)(B)(i) because plaintiff already brought the same claim in another case (2:18cv960-MHT *Jones v. Baskin*). There are no objections to the recommendation. After an independent and de novo review of the record, the court concludes

that, because plaintiff has not objected the magistrate judge's recommendation or offered any explanation for his decision to file a new complaint raising the same claim as in the prior case, the magistrate judge's recommendation should be adopted. However, the court's decision should not be read to hold that a pro se plaintiff's filing of a complaint that repeats the claim in a prior complaint always subjects the new claim to dismissal under 28 U.S.C. § 1915(e)(2)(B)(i).

An appropriate judgment will be entered.

DONE, this the 18th day of March, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE